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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,990	06/13/2003	Emily F. Hamilton	CU-3263 RJS	7125

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EXAMINER	
APANIUS, MICHAEL	

ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/600,990	HAMILTON, EMILY F.	
	Examiner	Art Unit	
	Michael Apanius	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *49-85* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *49-85* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *11 September 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to the amendment filed on 9/11/2006. The cancellation of claims 1-48; the addition of new claims 49-85; the amendments to the specification; and the replacement drawing sheet.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 62-65 and 76 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Although the support cited by the applicant in the last amendment appears to provide support for alternatively receiving and processing data from a user interface or from a sensor unit (page 16, lines 18-20), the original disclosure does not appear to support receiving a second signal, in addition to a first signal, and processing both signals with two databases to identify and convey two particular actions as set forth in new claims 62-65 and 76. Therefore, new claims 62-65 and 76 introduce new matter into the application.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 49-53, 56, 62-69, 72-78, 81 and 85 are rejected under 35 U.S.C. 102(b) as being anticipated by Keith et al. (US 5,609,156). Keith discloses a process for monitoring an obstetrics patient, said process comprising: providing a user interface control (12a, 12b) operable by a user, the user interface control allowing the user to input information (i.e. column 8, lines 53-56) on a status of a health characteristic (i.e. the overall condition and prospect for successful natural delivery) of the obstetrics patient, the status of the health characteristic being inherently associated with a probability of a certain outcome (i.e. operative delivery/cesarean section, survival); accessing a database (10) that maps (column 8, lines 16-63) different possible statuses of the health characteristic to respective actions for causing a change in the probability of the certain outcome; identifying a particular action (i.e. figure 13 and/or column 8, lines 28-29) for causing the probability of the certain outcome to change; conveying data indicative of the particular action to the user via a display (16). In regards to claims 50 and 56, the status of the health characteristic can be a measurement of cervical dilation (column 8, lines 53-56). In regards to claims 51 and 52, the health characteristic is modified by the particular action to cause the change in the probability of the outcome. In regards to claim 53, the patient includes a pregnant woman and a

fetus. In regards to claims 62-65, the process also similarly maps a measurement taken from a sensor unit and sensor interface (1) to a particular action for changing the same outcome. In regards to claims 66-69, 72-78, 81 and 85, the limitations are similarly met as noted above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 54, 55, 70, 71, 79 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keith et al. (US 5,609,156) in view of Hildebrand et al. (US 6,470,320). Keith does not expressly disclose deriving the probability of the certain outcome. Hildebrand teaches deriving the probability of the certain outcome from information inputs and identifying a particular action based on information inputs and the derived probability for the purpose of determining if immediate action is required to improve the overall delivery of health care (column 9, lines 15-37). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have modified the process of Keith to base the determination of a particular action on both information inputs and a derived probably of an outcome as taught by Hildebrand in order to determine if immediate action is required to improve the overall delivery of health care.

8. Claims 57, 58, 82 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keith et al. (US 5,609,156) in view of Atad (US 4,976,692). Keith does not expressly disclose measurement of the ripeness of the cervix or an associated treatment. Atad teaches measurement of cervical ripeness to determine if artificial ripening treatment should be carried out (column 3, lines 32-40). It would have been obvious to one having ordinary skill in the art to use a measurement of cervical ripeness as taught by Atad as an additional measurement in the method and apparatus of Keith in order determine if artificial ripening should be carried out and therefore, improve fetal monitoring.

9. Claims 59 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keith et al. (US 5,609,156) in view of Enhorning (US 5,636,870). Keith does not expressly disclose using a patient's blood type or disease status. Enhorning teaches that blood type and disease status are included in a pregnancy medical chart (column 5, lines 39-45) that allows physicians to make better use of patient data to diagnose and treat a patient (abstract). One having ordinary skill in the art would recognize that because blood type and disease status are included on the pregnancy medical chart that they are useful measurements in monitoring, diagnosing, and treating an obstetrics patient. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to have used measurements of patient blood type and disease status as taught by Enhorning as additional measurements in the method and

apparatus of Keith in order to provide additional patient information so that diagnoses and treatment recommendations are improved.

10. Claims 61 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keith et al. (US 5,609,156) in view of Harrison et al. (US 5,431,171). Keith does not expressly disclose using a patient's body temperature. Harrison teaches that fetal temperature is critical in detecting fetal distress syndrome so that treatment may be administered as soon as possible (column 5, lines 40-49). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to use fetal temperature as taught by Harrison in the method and apparatus of Keith in order to detect fetal distress syndrome as soon as possible so that treatment may be timely administered.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Apanius whose telephone number is (571) 272-5537. The examiner can normally be reached on Mon-Fri 8am-4:30pm.

15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MA